

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-738-W/S - ORDER NO. 98-163
MARCH 2, 1998

IN RE: Application of Carolina Water Service, Inc.)
for an Increase in its Rates and Charges for)
Water and Sewer Service.)

ORDER 1/12
ON REMAND

This matter comes before the Public Service Commission of South Carolina ("the Commission") on remand from the South Carolina Supreme Court ("the Supreme Court"). See, Porter v. South Carolina Public Service Commission and Carolina Water Service, Inc., ___ S.C. ___, 493 S.E.2d 92 (1997). In December 1993, Carolina Water Service, Inc. ("the Company") filed a case seeking an increase in various rates and charges. By Order dated May 31, 1994, the Commission granted an increase of \$664,542 to the Company. The Consumer Advocate of South Carolina ("the Consumer Advocate"), a party to the case, appealed the Commission's decision. The Circuit Court affirmed the Commission's decision. The Supreme Court affirmed the Commission's decision in part but reversed and remanded two issues for further Commission consideration. The two issues remanded to the Commission concern the "New Account Charge" and "Deferred Charges."

I. NEW ACCOUNT CHARGE

The Supreme Court remanded the issue of the New Account Charge “for the Commission to make findings regarding the appropriate amount that should be allowed for the new account charge.” Porter v. SCPSC, et al., 493 S.E.2d at 99.

In the proceeding before the Commission, CWS requested a \$1.00 increase in the new account charge. At the hearing before the Commission, the Consumer Advocate elicited testimony on cross examination of a Commission Staff witness that indicated that a portion of the new account charge was related to turning off the service for an existing customer and not for setting up service for a new customer. The Commission then denied the Company’s request for an increase in the new account charge but did not reduce the new account charge as requested by the Consumer Advocate because the charge had been approved in a previous rate case without objection.

In its discussion on this issue, the Supreme Court stated that the “Commission has the continuing power to prospectively correct or reduce a previously approved charge.” Porter v. SCPSC, et al., 493 S.E.2d at 99. The Court further stated that “the fact that this matter came before the Commission pursuant to Company’s request for an increase in the new account charge does not impact the Commission’s power to consider all the facts before it and order a reduction in this charge.” Id. at 99. With regard to a reduction, the Supreme Court then stated in footnote 7 that “[o]f course, any reduction is subject to the requirement that the utility receive notice and an opportunity to be heard.” Id. at 99.

Based on the record before it, the Commission does not believe that it can find that the existing \$27.00 new account charge is supported by the evidence. But the

Commission also does not believe that the Company had proper notice that the new account charge could or would be reduced. A reduction in the charge was not framed by any pleading or notice in this case. The new account charge of \$27.00 had been determined to be just and reasonable in a prior proceeding from which no appeal was taken. In the hearing before the Commission, the Company had no notice, prior to cross examination of the Staff witness, that the new account charge was being challenged. Based on this lack of notice of a challenge to the new account charge, the Commission finds that the Company did not receive notice that the new account charge was being challenged as improper or unjust.

Therefore, pursuant to the Supreme Court's instruction that "any reduction is subject to the requirement that the utility receive notice and an opportunity to be heard," the Commission finds that a hearing on the new account charge should be held. See, Porter v. SCPSC, et al., 493 S.E.2d at 99. The Commission therefore instructs the Commission Staff to set the matter of the proper amount of the new account charge for hearing as soon as possible. The parties are hereby afforded notice that the hearing will address the appropriate amount of the new account charge, including the Consumer Advocate's position that a reduction in the new account charge is required.

II. DEFERRED CHARGES

With regard to the issue of deferred charges, the Supreme Court remanded ... "for the Commission to remove from the rate base calculation any deferred charges that are not unanticipated and non-recurring." Porter v. SCPSC, et al., 493 S.E.2d at 98. In its discussion on this issue, the Supreme Court noted that "the Commission adjusted test

year expense by allowing certain deferred charges for expenses actually incurred before the test year ... includ[ing] such expenses as tank maintenance and press washing sewer mains that were incurred between 1988 and 1993.” Id. at 98. The Supreme Court stated that some of these expenses were not extraordinary and did not qualify as deferred charges. Id. at 98. The Supreme Court further noted that expenses which “are routine and required at regular intervals ... do not qualify as extraordinary because they are not unanticipated or non-recurring.” Id. at 98.

In re-examining the issue of the deferred charges and using the standard set forth by the Supreme Court to remove any deferred charges that are not unanticipated and non-recurring, the Commission finds that \$57,439 should be included in expenses as deferred charges. This amount consists of \$31,343 for deferred charges relating to Hurricane Hugo; \$10,578 relating to an increase in Property Taxes; \$7,123 for an increase in Sales Tax; and \$8,395 for VOC testing. The Commission’s reasoning for allowing these charges is set forth below:

- (a) The deferred charges relating to Hurricane Hugo were not challenged on appeal. Therefore in recalculating the amount of deferred charges on remand, the Commission will include Hurricane Hugo related expenses.
- (b) The Commission will allow as deferred charges the amount relating to Property Taxes. By Order No. 90-694, dated August 1, 1990, this Commission had previously approved deferred treatment of this item and had approved a ten year recovery period. Additionally, as the amount associated with the Property Tax was brought about by a change in the method of

assessing the property tax, the Commission believes that this meets the unanticipated and non-recurring standard set forth by the Supreme Court.

Finally, the Supreme Court in Hamm v. South Carolina Public Service Commission and Carolina Water Service, Inc., ___ S.C. ___, 432 S.E.2d 454 (1993) recognized that unrecovered property taxes may be included as an expense and that such recovery does not constitute retroactive ratemaking.

- (c) The Commission will also allow in deferred charges the amount associated with the Sales Tax Audit. The Commission finds that the increase in Sales Tax as a result of an audit meets the unanticipated and non-recurring standard. The Commission believes that the non-recovery of taxes is something that is unanticipated and is not likely to recur. Additionally, the Commission believes that Hamm v. SCPSC, et al., 432 S.E.2d 454, which allows the recovery of unrecovered property taxes, would permit the Commission to include the recovery of other unrecovered taxes. Therefore, the Commission finds that approval of the Sales Tax expense would therefore qualify for extraordinary treatment and should properly be included as a deferred charge.
- (d) The Commission will allow as deferred charges the amount relating to VOC (Volatile Organic Compound) testing. The Commission takes judicial notice of the fact that the 1986 amendments to the Safe Drinking Water Act required water systems to monitor for VOCs. Pursuant to the requirement that water systems monitor for VOCs, the Commission is also aware from previous cases that the Company contracted with a private laboratory to have the

required tests performed. By amendment to the Safe Drinking Water Act, the General Assembly required the Department of Health and Environmental Control (“DHEC”) to conduct all VOC monitoring as of July 1, 1993. See, S.C. Code Ann. §44-55-120 (Supp. 1997). Based on this change in procedures where DHEC would conduct the VOC testing, the Commission finds that the expenses related to VOC testing will not be recurring for the Company. Therefore, the Commission finds that the expenses for VOC testing of \$8,395 should be recovered as a deferred charge.

The Supreme Court also stated that, to the extent certain expenses did not constitute an allowable deferred charge, the Commission should consider those expenses “prospectively as known and measurable adjustments to test year expenses.” Porter v. SCPSC, et al., 493 S.E.2d at 98 (emphasis in original). Therefore, upon consideration of the expenses not allowed as deferred charges, the Commission finds that \$5,419 should be allowed in test year expenses as Operation and Maintenance (“O&M”) Expenses. These expenses were incurred during the test year, and under the analysis of the Supreme Court are expenses which are routine and recurring in maintaining the Company’s existing facilities. Therefore, the Commission finds that the following expenses are properly included in O&M expenses for the determination of rates:

- (a) The Company expended \$1,848 during the test year for Tank Maintenance.

Using the analysis set forth by the Supreme Court, the Commission finds that the costs expended for Tank Maintenance are routine and recurring costs. As

the expenses for Tank Maintenance are costs that recur as part of maintaining the existing facility, the Commission believes that these expenses are properly included in test year expenses.

(b) During the test year, the Company had expenses of \$2,078 for Pressure Washing of sewer mains. The Commission finds that this is a recurring and routine maintenance expense which is necessary for maintaining existing facilities and should therefore be allowed in test year expenses for the determination of rates.

(c) Also during the test year, the Company had expenses for TV Sewer Mains of \$1,493. The Commission finds that this is a maintenance expense which is recurring and routine and which is spent in maintenance of existing plant. Therefore, the Commission finds that this expense should be included in test year expenses for purposes of calculating rates.

Based on the foregoing discussion, the Commission finds that \$57,439 should be included in expenses as deferred charges and that \$5,419 should be allowed in test year expenses as Operation and Maintenance (“O&M”) Expenses. This determination results in a disallowance of \$12,618 from expenses previously allowed by Commission Order No. 94-484, dated May 31, 1994.

Based on the findings of this Order, rates must be recalculated using the expenses approved herein. New rates using the expenses approved herein are set forth in Appendix A, which is attached hereto and incorporated herein by reference.

As the Commission has disallowed certain expenses upon which the rates in Order No. 94-484 were established and as new rates using the herein approved expenses differ from the rates approved by Order No. 94-484, the Commission orders a refund to the customers. The refund shall consist of the difference in rates as established by Order No. 94-484 and the rates approved herein. The refund shall cover the period from May 31, 1994, which is the date of Order No. 94-484, until the Company places the rates approved herein into effect. Further, the refund shall include interest at 8.75% per annum, which is the legal rate of interest established by S.C. Code Ann. §34-31-20 (1987), from May 31, 1994, until the refund is made. Refunds shall be made to customers in the service areas which were impacted by the rates established by Order No. 94-484.

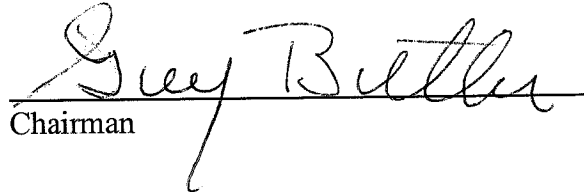
IT IS THEREFORE ORDERED THAT:

1. A hearing shall be held on the determination of a new account charge. Staff is instructed to set this matter for hearing as soon as possible. Further, the parties are hereby afforded notice that the hearing will address the appropriate amount of the new account charge, including the Consumer Advocate's position that a reduction in the charge is appropriate.
2. Expenses, upon which rates are calculated, are reduced by \$12,618. Rates for service based on this new level of expenses are set forth in Appendix A and, as of the date of this Order, are the rates which are approved for the Company to charge for water and sewer service.

3. The Company shall make refunds of the difference in the rates established by Order No. 94-484 and the rates approved herein. Such refunds are to be made from May 31, 1994, until the rates approved herein are placed in effect. Further, the refunds shall include interest at 8.75% per annum from May 31, 1994, until the refunds are made. The Company shall provide proof to the Commission of when the refunds are made and of the amount of the refunds.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

APPENDIX A

CAROLINA WATER SERVICE, INC.

FILED PURSUANT TO DOCKET NO. 93-738-W/S- ORDER NO. 98-163
EFFECTIVE DATE: MARCH 2, 1998

SCHEDULE OF RATES AND CHARGES
WATER

1. Monthly Charges

Residential

Base Facilities Charge - Residential
Monthly charge per single family
house, condominium, mobile home
or apartment unit:

\$7.96 per unit

Commodity Charge:

\$3.24 per 1,000
gallons or 134 cft

Commercial

5/8" meter	\$ 7.96
1" "	\$ 19.90
1.5" "	\$ 39.80
2" "	\$ 63.68
3" "	\$127.36
4" "	\$199.01

Riverhills

Residential

Base Facilities Charge - Residential
Monthly charge per single family
house, condominium, mobile home
or apartment unit:

\$7.00 per unit

Commodity Charge:

\$2.75 per 1,000
gallons or 134 cft

Commercial

5/8" meter	\$ 7.00
1" "	\$ 17.50
1.5" "	\$ 35.00
2" "	\$ 56.00
3" "	\$112.00
4" "	\$175.00

2. Charge for Water Distribution Only

Where water is purchased from a government body or agency or other entity for distribution and resale by the Company, the following rates apply:

Residential

Base facilities Charge - Residential
Monthly charge per single family
house, condominium, mobile home
or apartment unit:

\$7.96 per unit

Commodity charge:

\$1.85 per 1,000
gallons or 134 cft

Commercial

Monthly charge
by meter size.

5/8" meter	\$ 7.96
1" "	\$ 19.90
1.5" "	\$ 39.80
2" "	\$ 63.68
3" "	\$127.36
4" "	\$199.01

Commodity charge:

\$1.85 per 1,000
gallons or 134 cft

Riverhills

Residential

Base facilities Charge - Residential
Monthly charge per single family
house, condominium, mobile home
or apartment unit:

\$7.00 per unit

Commodity charge:

\$1.50 per 1,000
gallons or 134 cft

Commercial

Monthly charge
by meter size.

5/8" meter	\$ 7.00
1" "	\$ 17.50
1.5" "	\$ 35.00
2" "	\$ 56.00
3" "	\$112.00
4" "	\$175.00

Commodity charge:

\$1.50 per 1,000
gallons or 134 cft

The Utility will also charge for the cost of water purchased from the government body or agency, or other entity. The charges imposed or charged by the government body or agency, or other entity providing the water supply will be charged to the Utility's affected customers on a pro rata basis without markup.

Commercial customers are those not included in the residential category above and include, but not limited to hotels, stores, restaurants, offices, industry, etc.

The Utility will, for the convenience of the owner, bill a tenant. However, all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure to pay for services rendered to a tenant may result in service interruptions.

When, because of the method of water line installation utilized by the developer or owner, it is impractical to meter each unit separately, service will be provided through a single meter, and consumption of all units will be averaged; a bill will be calculated based on that average and result multiplied by the number of units served by a single meter.

3. Nonrecurring Charges

A) Water Service Connection (New connections only) . \$300 per SFE*

B) Plant Impact Fee (New connections only) \$400 per SFE*

Riverhills

A) Water Service Connection (New connections only) \$100 per SFE*

B) Plant Impact Fee (New connections only) \$400 per SFE*

The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating of a non residential customer is

less than one (1). If the equivalency rating of a non residential customer is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the water system is requested.

4. Account Set-Up and Reconnection Charges

a. Customer Account Charge - for new customers only.

Calvin Acres	\$20.00
Glen Village	\$20.00
All Others	\$27.00

b. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of thirty five dollars (\$35.00) shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-732.5. Customers who ask to be reconnected within nine months of disconnection will be charged the monthly base facility charge for the service period they were disconnected. The reconnection fee shall also be due prior to reconnection if water service has been disconnected at the request of the customer.

5. Billing Cycle

Recurring charges will be billed bimonthly in arrears.
Nonrecurring charges will be billed and collected in advance of service being provided.

6. Tax Multiplier

Except as otherwise provided by contract approved by the South Carolina Public Service Commission, amounts paid or transferred to the Utility by customers, builders, developers or others, either in the form of cash or property, shall be increased by a cash payment in an amount equal to the income taxes owed on the cash or property transferred to the Utility by customers, builders, developers, or others and properly classified as a contribution or advance in aid of construction in accordance with the Uniform System of Accounts. Included in this classification are water service connection charges and plant impact fees.

7. Extension of Utility Service Lines and Mains

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to connect to its water system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to any appropriate connection point, to pay the appropriate fees and charges set forth in this rate schedule, and comply with the guidelines and standards hereof, shall not be denied service, unless water supply is unavailable or

APPENDIX A

DOCKET NO. 93-738-W/S - ORDER NO. 98-163

MARCH 2, 1998

PAGE FIVE

unless the South Carolina Department of Health and Environmental Control or other government entity has restricted the Utility from adding for any reason additional customers to the serving water system. In no event will the Utility be required to construct additional water supply capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding water supply capacity to the affected water system.

* A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Environmental Control Guidelines for Unit Contributory Loadings for Wastewater Treatment--1990.

SCHEDULE RATES AND CHARGES
SEWER

1. Monthly Charges

Residential - monthly charge per single-family house, condominium, villa, or apartment unit:	\$28.86 per unit
Mobile Homes - monthly charge:	\$21.64 per unit
Commercial - monthly charge:	\$28.86 per SFE*

Riverhills

Residential - monthly charge per single-family house, condominium, villa, or apartment unit:	\$26.00 per unit
Mobile Homes - monthly charge:	\$19.50 per unit
Commercial - monthly charge:	\$26.00 per SFE*

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

Charge for Sewage Collection Service Only

When sewage is collected by the Utility and transferred to a government body or agency, or other entity, for treatment, the Utility's rates are as follows:

Residential - monthly charge per single-family house, condominium, or apartment unit	\$17.91 per unit
Commercial - monthly charge per single-family equivalent	\$17.91 per SFE*

Riverhills

Residential - monthly charge per single-family house, condominium, or apartment unit	\$15.00 per unit
Commercial - monthly charge per single-family equivalent	\$15.00 per SFE*

The Utility will also charge for treatment services provided by the government body or agency, or other entity. The rates imposed or charged by the government body or agency, or other entity providing treatment will be charged to the Utility's affected customers on a pro rata basis, without markup. Where the Utility is required under the terms of the 201/208 Plan to interconnect to the sewage treatment system of a government body of agency or other entity and tap/connection/impact fees are imposed by that entity, such tap/connection/impact fees will be charged to the Utility's affected customers on a pro rata basis, without markup.

Solids Interceptor Tanks

For all customers receiving sewage collection service through an approved solids interceptor tank, the following additional charges shall apply.

Pumping Charge

At such time as the Utility determines through its inspection that excessive solids have accumulated in the interceptor tank, the Utility will arrange for pumping the tank and will include \$120.00 as a separate item in the next regular billing to the customer.

Pump Repair or Replacement Charge

If a separate pump is required to transport the customer's sewage from solids interceptor tank to the Utility's sewage collection system, the Utility will arrange to have this pump repaired or replaced as required and will include the cost of such repair or replacement and may be paid for over a one year period.

Visual Inspection Port

In order for a customer who uses a solids interceptor tank to receive sewage service from the Utility or to continue to receive such service, the customer shall install at the customer's expense a visual inspection port which will allow for observation of the contents of the solids interceptor tank and extraction of test samples therefrom. Failure to provide such a visual inspection port after timely notice of not less than thirty (30) days shall be just cause for interruption of service until a visual inspection port has been installed.

2. Nonrecurring Charges

- A) Sewer Service Connection (New connections only) \$300 per SFE*
- B) Plant Impact Fee (New connections only) \$400 per SFE*

Riverhills

- A) Sewer Service Connection (New connections only) \$100 per SFE*
- B) Plant Impact Fee (New connections only) \$400 per SFE*

The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating of a non residential customer is less than one (1). If the equivalency rating of a non residential customer is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

3. Notification, Account Set-Up and Reconnection Charges

a. Notification Fee

A fee of five dollars (\$4.00) shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R. 103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating the cost.

b. Customer Account Charge - for new customers only.

Glen Village	\$20.00
All Others	\$27.00

A one-time fee to defray the costs of initiating service. This charge will be waived if the customer also takes water service.

- c. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of two hundred fifty dollars (\$250.00) shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars (\$35.00) shall be due. Customers who ask to be reconnected within nine months of disconnections will be charged the monthly service charge for the service period they were disconnected.

4. Billing Cycle

Recurring charges will be billed bimonthly in arrears.
Nonrecurring charges will be billed and collected in advance of service being provided.

5. Tax Multiplier

Except as otherwise provided by contract approved by the South Carolina Public Service Commission, amounts paid or transferred to the Utility by customers, builders, developers or others, either in the form of cash or property, shall be increased by a cash payment in an amount equal to the income taxes owed on the cash or property transferred to the Utility by customers, builders, developers, or others and properly classified as a contribution or advance in aid of construction in accordance with the Uniform System of Accounts. Included in this classification are sewer service connection charges and plant impact fees.

6. Toxic and Pretreatment Effluent Guidelines

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

7. Extension of Utility Service Lines and Mains

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into one of its sewer systems. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an

APPENDIX A

DOCKET NO. 93-738-W/S - ORDER NO. 98-163

MARCH 2, 1998

PAGE TEN

appropriate connection point, to pay the appropriate fees and charges set forth in this rate schedule and to comply with the guidelines and standards hereof, shall not be denied service, unless treatment capacity is unavailable or unless the South Carolina Department of Health and Environmental Control or other government entity has restricted the Utility from adding for any reason additional customers to the serving sewer system.

In no event will the Utility be required to construct additional wastewater treatment capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding wastewater treatment capacity to the affected sewer system.

* A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Environmental Control Guidelines for Unit Contributory Loading for Wastewater Treatment--1990. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.